

 ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - x

UNITED STATES OF AMERICA : SEALED
INDICTMENT
- v. - : 08 Cr. 391
RAFAEL CAJIGAS, :
a/k/a "Ralph," :
Defendant. :
: - - - - - x

08 CRIM. 391

COUNT ONE

The Grand Jury charges:

1. On or about February 17, 2002, in the Southern District of New York, while engaged in an offense punishable under Section 841(b)(1)(A) of Title 21, United States Code, to wit, a conspiracy to distribute, and to possess with intent to distribute, 5 kilograms and more of mixtures and substances containing a detectable amount of cocaine, RAFAEL CAJIGAS, a/k/a "Ralph," the defendant, and others known and unknown, unlawfully, intentionally, and knowingly killed, and counseled, commanded, induced, procured, and caused the intentional killing of Omar Pena in the Bronx, New York.

(Title 21, United States Code, Section 848(e)(1)(A);
and Title 18, United States Code, Section 2.)

Judge Marrero

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: <u>37648</u>
DATE FILED: <u>5/6/08</u>

SPECIAL FINDINGS AS TO RAFAEL CAJIGAS

2. As to Count One of the Indictment, alleging the murder of Omar Pena in connection with a drug trafficking crime, the defendant RAFAEL CAJIGAS:

a. was 18 years of age or older at the time of the offense;

b. intentionally killed Omar Pena (Title 18, United States Code, Section 3591(a)(2)(A));

c. intentionally inflicted serious bodily injury that resulted in the death of Omar Pena (Title 18, United States Code, Section 3591(a)(2)(B));

d. intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and Omar Pena died as a direct result of the act (Title 18, United States Code, Section 3591(a)(2)(C));

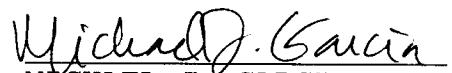
e. intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and Omar Pena died as a direct result of the act (Title 18, United States Code, Section 3591(a)(2)(D));

f. in the commission of the offense or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense (Title 18, United States Code, Section 3592(c)(5)); and

g. intentionally killed or attempted to kill more than one person in a single criminal episode (Title 18, United States Code, Section 3592(c)(16)).



John Winters
FOREPERSON



Michael J. Garcia
MICHAEL J. GARCIA
United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

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- v. -

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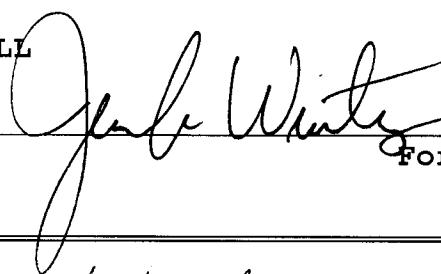
INDICTMENT

08 Cr.

(Title 21, United States Code, Section
848(e) and Title 18, United States Code,
Section 2.)

MICHAEL J. GARCIA
United States Attorney.

A TRUE BILL


Foreperson.

6/6/08
Indictment filed, arrest warrant issued.

F. Moas, USM